

**Franchise Tax Board****ANALYSIS OF ORIGINAL BILL**

Author: Bowen Analyst: Gail Hall Bill Number: SB 13  
Related Bills: See Legislative History Telephone: 845-6111 Introduced Date: December 6, 2004  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Personal Information Disclosure For Research Purposes

**SUMMARY**

This bill would amend the Civil Code and the Welfare and Institutions Code to provide strict limitations on the personal information a state agency may disclose for statistical research and reporting purposes.

**PURPOSE OF THE BILL**

The author's staff has indicated that the purpose of this bill is to provide strict limits on the dissemination of personal information maintained by state agencies in order to protect the privacy of individuals and prevent identity theft.

**EFFECTIVE/OPERATIVE DATE**

This bill would become effective and operative January 1, 2006.

**POSITION**

Pending.

**ANALYSIS**FEDERAL/STATE LAW

Current federal law provides that returns and tax information are confidential and may not be disclosed to federal or state agencies or employees, except for authorized purposes. Agencies allowed access to federal return information include certain federal and state agencies, such as Franchise Tax Board (FTB).

Current state law prohibits the disclosure of any taxpayer information unless authorized by statute. State law permits FTB to release individual tax return information to specific state agencies. Agencies must have a reason for requesting the information, for example, verifying eligibility for public assistance, locating absent parents to collect child support, or locating abducted children.

The Civil Code currently allows a state agency to provide personal information to:

## Board Position:

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Department Director

Date

Gerald H. Goldberg

3/3/05

- a person who has provided the agency with adequate written assurance the information will be used solely for statistical research or reporting purposes, and the information to be disclosed is in a form that will not identify the individual, and
- a nonprofit educational institution or the University of California conducting scientific research if the information is kept confidential, the identity of the person is not disclosed, and there is a need for the information.

The Welfare and Institutions Code allows the State Department of Social Services to make rules and regulations governing the use of personal information. Currently, records are available for research purposes if the disclosure of the personal information does not identify the social services applicant.

Under the California Information Practices Act of 1977, chapter 1798 of the Civil Code, current state law requires state and local agencies to maintain in their records only that personal information relevant and necessary to its governmental purposes. A state agency may disclose personal information only under specific circumstances. "Personal information" is defined as any information that is maintained by an agency that identifies or describes an individual. Examples of personal information include an individual's name, social security number (SSN), physical description, home address, home telephone, education, financial matters, and medical or employment history. The definition also includes statements made by, or attributed to, the individual.

### THIS BILL

This bill would amend the Civil Code to prohibit a state agency from disclosing an individual's personal information to public and private sector researchers.

This bill would amend the Welfare and Institutions Code by giving the State Department of Social Services the authority to limit the disclosure of personal information for research purposes. Only information that does not identify the social services applicant or link the information to an applicant may be disclosed for research purposes.

### IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations. The department already follows strict rules to protect the confidentiality of personal information. Certain limited exceptions are provided by statutes that require sharing with other specified government agencies such as the Office of the Attorney General.

In addition, the department receives several requests each year from private and public research sectors for data. If information is provided, it is done so cumulative data is not identifiable to any individual taxpayer.

### **LEGISLATIVE HISTORY**

SB 168 (Bowen, Stats. 2001, Ch. 720) and SB 25 (Bowen, Stats. 2003, Ch. 907) banned both business and government from publicly posting or displaying SSNs, printing SSNs on identification cards, e.g. medical, bank, employee, and student ID cards, and including SSNs on documents sent in the mail.

## **BACKGROUND**

According to a news release dated December 6, 2004, this bill comes in the wake of a University of California, Berkeley, computer hacking incident. The California Department of Social Services gave the names, SSNs, birth dates, and telephone numbers of some 600,000 In-Home Supportive Service providers and recipients to a Connecticut researcher. The researcher was on leave at UC Berkeley to study the impact of improved wages and benefits on the state's ability to hire and retain in-home, long-term care providers. Her computer was hacked into on August 1, 2004, though UC officials did not learn of the break-in until August 30, 2004. The incident was not reported to the state until September 21, 2004. It was unclear if the researcher complied with the requirements of the civil code relating to the use of personal information received from a state agency.

The news release explained that according to the Federal Trade Commission, nearly 10 million people became identity theft victims between April 2003 and April 2004, costing businesses and financial institutions about \$48 billion. As for the victims themselves, they spend more than \$5 billion in out-of-pocket expenses to regain their financial identities.

There are currently 232 data sources being received or sent by the department. The department has received a few requests for statistical data from research organizations. The requests were reviewed to determine if there was sufficient legal authority to provide the data requested. Some requests were denied because current law prohibited the disclosure of taxpayer records. A few requests were granted when statistical data could be provided without disclosing taxpayer information.

## **OTHER STATES' INFORMATION**

Most states have privacy and identity theft laws that are similar to California. The Federal Privacy Act prohibits various state and local agencies from disclosing federal personal information, such as a SSN, in an unauthorized manner.

*Illinois, Massachusetts, Michigan, New York, and Minnesota* have varying identity theft laws that make it illegal to use any personal identifying information of another person to fraudulently obtain credit, money, goods, services, or property. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

## **FISCAL IMPACT**

This bill would not significantly impact the department's costs.

## **ECONOMIC IMPACT**

### Revenue Discussion

This bill would not impact the state's income tax revenue.

## **LEGISLATIVE STAFF CONTACT**

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